UNITED STATES PATENT AND TRADEMARK OFFICE

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10/786,961	02/25/2004	David R. Clark	555255012729	4125

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EXAMINER
ADDY, ANTHONY S

ART UNIT	PAPER NUMBER
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 March 2008*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-6,8,9,16 and 48-55* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 4-6, 8, 9, 16 and 48-55* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

1.   This action is in response to applicant's amendment filed on March 07, 2008.

Claims 1, 4-6, 8, 9, 16 and **48-55** are pending in the present application.

Response to Arguments

2.   Applicant's arguments with respect to **claims 1, 4-6, 8, 9, 16** and **48-55** have

been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

4.   Claims 1, 4-6, 8, 9, 16 and 48-55 are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Vasudevan, U.S. Publication Number 20040192282 A1**

(hereinafter Vasudevan) and further in view of **Mathur, U.S. Patent Number**

5,008,814 (hereinafter Mathur).

        As to **claims 1** and **53**, Vasudevan discloses: A method of updating a mobile

device (e.g., mobile communication device 110) having a baseline configuration stored

in a mobile device memory (see p. 2 [0028] and p. 3 [0036]), comprising: receiving at a

mobile device resource requirements data for an update from an update management

computing device, the resource requirements data including a memory size of update

data associated with the update (see p. 3 [0042]); determining whether the mobile

device has a minimum amount of available memory in the mobile device memory to

store the update data by comparing the memory size of the update data to the minimum

amount of available memory in the mobile device memory (see p. 3 [0042]); if the

mobile device does not have the minimum amount of available memory in the mobile

device memory to store the update data, then identifying stored mobile device data

stored in the mobile device memory that may be purged to make available the minimum

amount of available memory in the mobile device memory (see p. 4 [0047]); transmitting

from the mobile device to the update management computing device update request

data requesting update data (see p. 4 [0047]); receiving at the mobile device the update

data from the update management computing device in response to the transmitted

update request data (see p. 4 [0047]).

However, Vasudevan fails to disclose updating the mobile device with the

received update data by: creating an updated mobile device configuration within the

available memory of the mobile device memory; and maintaining the baseline mobile

device configuration within the mobile device memory after creating the updated mobile

device configuration within the available memory of the mobile device memory, wherein

the baseline mobile device configuration is maintained within the mobile device memory

for a period of time sufficient to allow the updated mobile device configuration to be

tested. However, the Examiner contends this feature is very well known in the art as

taught for example by Mathur.

In an analogous field of endeavor, Mathur teaches a method and apparatus for

updating system management software in a communication network, comprising:

updating a mobile device with the received update data by: creating an updated mobile

device configuration within the available memory of the mobile device memory (see col. 6, lines 3-10 and Fig. 2; *step 204*); and maintaining the baseline mobile device configuration within the mobile device memory after creating the updated mobile device configuration within the available memory of the mobile device memory, wherein the baseline mobile device configuration is maintained within the mobile device memory for a period of time sufficient to allow the updated mobile device configuration to be tested (see col. 7, line 45 through col. 8, line 23 and Fig. 2; *steps 207-211*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vasudevan with the teachings of Mathur to include a method of updating the mobile device with the received update data by: creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile device configuration within the mobile device memory after creating the updated mobile device configuration within the available memory of the mobile device memory, wherein the baseline mobile device configuration is maintained within the mobile device memory for a period of time sufficient to allow the updated mobile device configuration to be tested, in order to easily update system management software in a communication device from a current code version to a latest updated code version, and verifying at the communication device, to determine whether it received an appropriate update package before applying the update package to the existing version of firmware and/or software in the communication device as per the teachings of Mathur (see abstract, col. 2, lines 7-27 and Fig. 2).

As to **claim 4**, Vasudevan in view of Mathur teaches all the limitations of claim 1 and Vasudevan also discloses: upon identifying stored mobile device data stored in the mobile device memory that may be purged to make available the minimum amount of available memory in the mobile device memory (see p. 4 [0047]): determining whether the identified stored mobile device data is stored on a remote storage device operable to communicate with the mobile device over a communication network (see p. 4 [0047]); upon determining that the identified stored mobile device data is not stored on the remote storage device, transmitting the identified stored mobile device data to the remote storage device for storage (see p. 4 [0047]); and purging the identified stored mobile device data from the mobile device memory (see p. 4 [0047]).

As to **claim 5**, Vasudevan in view of Mathur teaches all the limitations of claim 4 and Vasudevan also discloses: updating the mobile device with the received update data (see p. 3 [0042]); transmitting a request from the mobile device to the remote storage device for transmission of the identified stored mobile device data from the remote storage device to the mobile device (see p. 3 [0043]); receiving the identified stored mobile device data from the remote storage device in response to the transmitted request (see p. 3 [0043]); and storing the identified stored mobile device data in the mobile device memory (see p. 3 [0043]).

As to **claim 6**, Vasudevan in view of Mathur teaches all the limitations of claim 5 and Vasudevan also discloses: the remote storage device comprises the update management computing device (see p. 5 [0054]).

As to **claim 16,** Vasudevan in view of Mathur teaches all the limitations of claim 1. Vasudevan in view of Mathur further teaches wherein updating the mobile device with the received update data further comprises copy-on-write of stored baseline configuration data stored into the available memory of the mobile device (see *Vasudevan*, p. 4 [0047] and *Mathur*, col. 5, lines 48-60, col. 6, lines 3-23 and Fig. 2).

As to **claim 48**, Vasudevan discloses: A mobile device having a baseline configuration stored in a mobile device memory (e.g., mobile communication device 110) (see p. 2 [0028] and p. 3 [0036]), comprising: means for receiving resource requirements data for an update from an update management computing device, the resource requirements data including a memory size of update data associated with the update (see p. 3 [0042] [i.e., *It is inherent the mobile device includes a transceiver for communicating with the DA server to receive software updates*]); means for determining whether the mobile device has a minimum amount of available memory in the mobile device memory to store the update data by comparing the memory size of the update data to the minimum amount of available memory in the mobile device memory (see p. 3 [0042-0043] and p. 4 [0047]); means, responsive to the mobile device not having the minimum amount of available memory in the mobile device memory to store the update data, for identifying stored mobile device data stored in the mobile device memory that may be purged to make available the minimum amount of available memory in the mobile device memory (see p. 3 [0042-0043] and p. 4 [0047]); means for transmitting from to the update management computing device update request data requesting update data (see p. 4 [0047]); means for receiving at the mobile device the update data

from the update management computing device in response to the transmitted update

request data (see p. 4 [0047]).

However, Vasudevan fails to disclose means for updating the mobile device with

the received update data by: creating an updated mobile device configuration within the

available memory of the mobile device memory; and maintaining the baseline mobile

device configuration within the mobile device memory after creating the updated mobile

device configuration within the available memory of the mobile device memory, wherein

the baseline mobile device configuration is maintained within the mobile device memory

for a period of time sufficient to allow the updated mobile device configuration to be

tested. However, the Examiner contends this feature is very well known in the art as

taught for example by Mathur.

In an analogous field of endeavor, Mathur teaches a method and apparatus for

updating system management software in a communication network, comprising:

updating a mobile device with the received update data by: creating an updated mobile

device configuration within the available memory of the mobile device memory (see col.

6, lines 3-10 and Fig. 2; *step 204*); and maintaining the baseline mobile device

configuration within the mobile device memory after creating the updated mobile device

configuration within the available memory of the mobile device memory, wherein the

baseline mobile device configuration is maintained within the mobile device memory for

a period of time sufficient to allow the updated mobile device configuration to be tested

(see col. 7, line 45 through col. 8, line 23 and Fig. 2; *steps 207-211*).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention to modify Vasudevan with the teachings of Mathur to include a

mobile device, comprising: means for updating the mobile device with the received

update data by: creating an updated mobile device configuration within the available

memory of the mobile device memory; and maintaining the baseline mobile device

configuration within the mobile device memory after creating the updated mobile device

configuration within the available memory of the mobile device memory, wherein the

baseline mobile device configuration is maintained within the mobile device memory for

a period of time sufficient to allow the updated mobile device configuration to be tested,

in order to easily update system management software in a communication device from

a current code version to a latest updated code version, and verifying at the

communication device, to determine whether it received an appropriate update package

before applying the update package to the existing version of firmware and/or software

in the communication device as per the teachings of Mathur (see abstract, col. 2, lines

7-27 and Fig. 2).

As to **claim 49**, Vasudevan in view of Mathur teaches all the limitations of claim

48 and Vasudevan also discloses: means **(LRM)**, responsive identifying stored mobile

device data stored in the mobile device memory that may be purged to make available

the minimum amount of available memory in the mobile device memory (see p. 4

[0047]), for determining whether the identified stored mobile device data is stored on a

remote storage device operable to communicate with the mobile device over a

communication network see p. 4 [0047])); means **(LRM)**, response to determining that

the identified stored mobile device data is not stored on the remote storage device, transmitting the identified stored mobile device data to the remote storage device for storage (see p. 4 [0047]), and for purging the identified stored mobile device data from the mobile device memory (see p. 4 [0047]).

As to **claim 50**, Vasudevan in view of Mathur teaches all the limitations of claim 49 and Vasudevan also discloses: means for transmitting a request from the mobile device to the remote storage device for transmission of the identified stored mobile device data from the remote storage device to the mobile device (see p. 3 [0043]); means for receiving the identified stored mobile device data from the remote storage device in response to the transmitted request (see p. 3 [0043]); and means for storing the identified stored mobile device data in the mobile device memory (see p. 3 [0043]).

As to **claims 8, 51,** and **54**, Vasudevan in view of Mathur teaches all the limitations of claims 1, 48 and 53. Vasudevan in view of Mathur further teaches a mobile device and a method, wherein updating the mobile device with the received update data further comprises: determining whether to accept the updated mobile device configuration; upon determining to accept the updated mobile device configuration, accepting the updated mobile device configuration as the mobile device baseline (see *Mathur,* col. 7, line 45 through col. 8, line 23 and Fig. 2; *steps 207-211*); and upon determining not to accept the updated mobile device configuration, reverting to the baseline mobile device configuration (see *Mathur,* see col. 7, lines 45-63, col. 9, lines 20-30 and Fig. 2; *steps 208 & 210*).

As to **claims 9, 52,** and **55,** Vasudevan in view of Mathur teaches all the
limitations of claims 1, 48 and 53. Vasudevan in view of Mathur further teaches a
mobile device and a method, wherein updating the mobile device with the received
update data further comprises: storing an update resource in the mobile device
memory, the update resource specifying the baseline mobile device configuration and
updated mobile device configuration (see *Vasudevan*, p. 4 [0047] and *Mathur*, col. 6,
lines 3-23 and Fig. 2; *step 204*); determining whether an update resource is stored in
the mobile device memory during an initialization of the mobile device; upon
determining that the update resource is stored in the mobile device memory during an
initialization of the mobile device, prompting a mobile device user to select one of the
baseline mobile device configuration or updated mobile device configuration; and
accepting the updated mobile device configuration or reverting to the baseline mobile
device configuration based on the user selection (see *Mathur,* see col. 7, lines 31-63,
col. 9, lines 20-30 and Fig. 2; *steps 208 & 210*).

Conclusion

5.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to ANTHONY S. ADDY whose telephone number is
(571)272-7795. The examiner can normally be reached on Mon-Thur 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Duc M. Nguyen can be reached on 571-272-7503. The fax phone number
for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony S Addy/
Examiner, Art Unit 2617

/Duc Nguyen/
Supervisory Patent Examiner, Art Unit 2617